

### **REMARKS**

Applicant's attorney would like to thank Examiner Mylinh Tran for her helpful comments made during a telephone conversation with the undersigned attorney on April 19, 2010. At that time, discussion concerning claim 1 was made with respect to the rejection of this claim as appears at pages 3-4 of the Office Action. Although no agreement was reached, applicant's attorney did point out that Figures 5A, 5B, and 5D of US patent application publication 2004/0142720, Smethers, are to be read in conjunction with Table 2 of Smethers which appears on page 7 of this reference. It is there stated that "The user can use the 'Select' key (which may be Enter key 220 or a softkey) to select any menu item. The user can use the Up and Down arrow keys 221A and 221B to highlight a different menu item for selection." Applicant's attorney therefore argued that what Smethers is showing in Figures 5A, 5B, and 5D is the highlighting of an item in the menu prior to its selection (i.e., activation) where the selection is performed by depressing the Select key shown in Figure 5A. Thus, what Smethers is showing is not an activating of a selection item, but something prior to such activating as that term is used in the present application.

Further, Examiner Tran indicated that with respect to US patent 6,332,024, Inoue, et al (hereinafter Inoue), arrow keys C21 and C22 shown in Figure 6C are, in the Examiner's opinion, auxiliary elements with respect to activating the Enter key in Figure 6B. Such specific reliance upon Inoue was not recited in the rejection of claim 1 as it appears in the Office Action of December 28, 2009.

In response to the non-final Official Action of December 28, 2009, amendment has been made to independent claims 1, 11, 19, 21, 24, 26, and 30 in order to particularly point out and distinctly claim the invention. Support for the amendment to these independent claims is found in the original application as filed, including Figures 1-4, as well as in the specification, including page 5, line 1 through page 8, line 16. Minor grammatical correction is made at page 1 of the specification. No new matter is added.

In particular, claim 1 has been amended to particularly point out and claim that the displaying of the magnified version of the active selection element along with at least one auxiliary element is performed such that the auxiliary element is hidden from the selection element prior to activating said selection element. This is clearly seen in Figures 1-4 of the present application where the activated selection element, such as the indicated

MESSAGING selection element, is shown in magnified form when activated and such that it displays auxiliary elements, such as navigation aids 4a and/or selection aids 4b along with this magnified version of the activated selection element, but wherein these auxiliary elements are hidden for selection elements which have not been activated, such as the CALENDAR and CALCULATOR selection elements shown in Figures 1 and 2. It would only be when such a selection element is activated, such as by activating the CALENDAR selection element in toolbar 1, that the magnified version of this active selection element would be shown along with at least one auxiliary element. The specification also supports this feature at page 3, lines 16-22 and 28-31. Corresponding amendment is made to independent claims 11, 19, 21, 24, 26, and 30.

Dependent claim 4 has also been amended for consistency with terms used in claim 1.

Dependent claims 2, 20, 23, 25, and 27 have been amended to particularly point out and distinctly claim that the displaying of a submenu is along with the active selection element. Support for this amendment is found in the original application as filed, including Figures 1-3 and the accompanying description in the specification, including page 5, line 10 through page 7, line 16.

Independent claim 40 has also been slightly amended.

### **Claim Rejections - 35 USC §103**

At pages 2-12, claims 1-4, 6-11, 13-27, 29, 30, and 32-45 are rejected under 35 USC §103(a) as unpatentable in view of US patent 6,332,024, Inoue, et al (hereinafter Inoue), in view of US patent application publication 2004/0142720, Smethers.

With respect to claim 1, the Office asserts that Inoue teaches displaying a plurality of selection elements, citing Figure 6E and “selection element” C41 and C40; activating one of the selection elements (such as the ENTER selection element) and displaying a version of the active selection element along with at least one auxiliary element, referencing Figure 6F and element C50 with two arrows up and down being equated to auxiliary elements. The Office also relies upon Smethers for teaching the displaying of a magnified version of the active selection element. Applicant respectfully disagrees for the reasons presented below.

## **Overview of Inoue**

As discussed in Inoue at column 9, line 59 through column 11, line 31, Figures 6A-6H explain a correlation between a display screen 2 and soft keys 3, 4A, 4B in the mobile telephone 1 (see also Figure 1). There is a main soft key 3 which can allow for scrolling of objects shown in the display screen 2 in an upward or downward direction, as well as the ability to select an item by depressing the soft key 3. Furthermore, main soft key 3 and first and second auxiliary soft keys 4A and 4B are shown which can take on different functions depending upon what is displayed as icons on the display screen in the space above each of the soft keys 3, 4A and 4B. For example, Inoue discloses at Figure 6A a registration mode CO which is shifted to after the soft key 3 corresponding to the word "REGISTER" is pressed as shown in Figure 4. At that point, the information shown in Figure 6A is displayed and it is explained that the user may rotate the main soft key 3 up or down to move the cursor C<sub>CO</sub> up to a desired item, such as the "TELEPHONE No." item shown in display screen 2, so that when the cursor C<sub>CO</sub> is on this item, it is selected by depressing soft key 3. At that point, the system moves into registration mode C1 as shown in Figure 6B (Inoue, column 9, line 59 through column 10, line 11).

When in the registration mode C1, the user can select items shown in the display screen by moving cursors C<sub>C1</sub> up or down by use of the main soft key 3 and when on a particular item in the display screen, it is selected by depressing the main soft key 3 which then corresponds to the "ENTER" icon I<sub>C10</sub>, causing the system to go into the registration mode C2 as shown in Figure 6C (Inoue, column 10, lines 12-26).

When in the registration mode C2, a tab T<sub>C2</sub> is shown where a name may be entered and where the auxiliary soft keys 4A and 4B are associated with directional left and right arrows respectively as shown by icons I<sub>C21</sub> and I<sub>C22</sub>. Icon I<sub>C20</sub> is the ENTER icon associated with the main soft key 3 (Inoue, column 10, lines 27-40).

Figures 6D-6H are associated with different activities of the user with regard to the main soft key and the auxiliary keys and the various modes that the system enters depending upon the selection made by the user (Inoue, column 10, line 41 through column 11, line 31).

## **Argument**

With respect to the rejection of claim 1, Figures 6E and 6F of Inoue are relied upon. Figure 6E of Inoue is discussed in Inoue at column 10, lines 51-64, while Figure 6F is discussed at column 10, line 65 through column 11, line 17. With respect to Figure 6E, this is a figure showing the display in what Inoue calls a registration mode C4. This mode is reached, for example, when "Mail" is selected in Figure 6A and the user is to enter the mail address in tab T<sub>C4</sub> as shown in Figure 6E. It is stated at column 10, lines 61-64 that "After entering the e-mail address in the tab T<sub>C4</sub> and then pressing the main soft key 3, the mode is shifted back from the above-mentioned registration mode C0". Mode C0 is shown in Figure 6A, not in Figure 6F.

Thus, if the ENTER selection element C40 (actually the ENTER key is icon I<sub>C40</sub> as discussed in Inoue, but the nomenclature used by the Office is used herein) is considered a selection element that is activated, there is no displaying a magnified version of this active selection element along with at least one auxiliary element as alleged by the Office with reference to Figure 6F. Furthermore, even what is shown in Figure 6F or, for that matter, Figure 6A, does not display a magnified version of the active selection element along with at least one auxiliary element. To make this point clear in claim 1, claim 1 has been amended to recite that the at least one auxiliary element is hidden from the selection element prior to said activating. This is clearly seen in all of the figures of the present application.

Furthermore, Inoue does not show that when a selection element is activated, such as the ENTER key I<sub>C40</sub>, that it causes displaying a magnified version of this active selection element along with at least one auxiliary element. When the ENTER key is activated in Figure 6E, Figure 6A is then shown which only shows the same selection element, but not in any different form, such as a magnified version thereof. This is also the situation with respect to Figures 6B and 6C discussed by Examiner Tran during the telephone conference with the undersigned attorney noted above. With respect to Figures 6E and 6F, Inoue also does not show the active selection element along with at least one auxiliary element wherein the at least one auxiliary element is not shown prior to said activation. In this regard, if, as contended by the Office, the two arrows up and down for icon C50 in Figure 6F are considered auxiliary elements, these auxiliary elements are not being displayed

along with the active selection element which the Office contends was the ENTER key in Figure 6E.

The Office relies upon Smethers for teaching the displaying a magnified version of the selection element at Figures 5A, 5B, and 5D. These figures of Smethers show a series of screens, including an example that demonstrates how the Browser Menu operates as described in Table 2 of Smethers. As shown in Table 2 of Smethers, when an item such as "E-mail" is highlighted as shown in Figure 5A, it can then be selected by use of the "Select" key as also shown in Figure 5A. Thus, the highlighting or even enlarging of an item in the list of items as shown in Figure 5A is not associated with activating a selection item, but rather for indicating that an item may be later activated by use of the "Select" key. Smethers is completely silent about activating one of the plurality of selection elements and displaying a magnified version of the activated selection element along with at least one auxiliary element, wherein the at least one auxiliary element is hidden from the selection element prior to said activating.

In this regard, applicant points out that the specification of the present application uses the terms "active" and "non-active" with respect to the disclosed selection elements 3. As is made clear throughout the specification, when a selection element is active, and only when it is active, do the auxiliary elements, such as navigation aids 4a and selection aids 4b appear with respect to that particular active selection element. This is clearly seen in Figure 1 and the accompanying description thereof at page 5, lines 10-27.

As has been established in *Phillips v. AWH Corporation*, 415 F.3d 1303, 1326, 75 USPQ 2d 1321 (Fed. Cir. 2005), claim terms are to be given a meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention; that is, as of the effective filing date of the patent application; and:

"[i]mportantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification."

It is therefore respectfully submitted that the terms "active" and "activating" as used in the specification (including the originally submitted claims) clearly mean that the selection element has to be activated in order to have auxiliary elements associated therewith in a

visible means. Such auxiliary elements, including selection aids 4b, can provide for quickly selectable functions which then can be performed, such as a "jump to the application X" functions as discussed at page 5, lines 15-27. It is also made clear at page 6, lines 31-32 of the specification that auxiliary elements 4a and 4b are hidden with respect to non-active selection elements. It is therefore clear that the terms "active" and "activating" have a particular meaning associated therewith in view of the specification and drawings of the present application, which meaning applies to the claims of the present application.

In view of the foregoing, it is respectfully submitted that claim 1 as amended continues to be distinguished over Inoue in view of Smethers.

Independent claims 19, 22, and 24 have been amended in a manner similar to claim 1 and for the reasons presented above with regard to claim 1 are also distinguished over Inoue in view of Smethers.

All of the dependent claims that ultimately depend from independent claims 1, 19, 22, and 24 are also allowable at least in view of such dependency. Further arguments concerning the dependent claims is presented below.

Dependent claims 2, 20, 23, and 25 are also rejected in view of Inoue and Smethers where the Office states that Inoue teaches displaying a sub-menu for the active selection element, citing Figure 4B and the name and phone number being a sub-menu. Figure 4B of Inoue is displayed when the redial selection is made in Figure 4A (Inoue, column 7, lines 25-41). When this is done, the redialing processing mode A1 is obtained as shown in Figure 4B where a list of telephone numbers from where telephone calls have been recently received is shown along with a cursor  $C_{A1}$  showing a selected location that appears on the LCD display screen 2 (Inoue, column 7, lines 42-45).

It is not seen how the name and phone number shown in Figure 4B is a sub-menu for the active selection element since the selection element which is activated in Inoue (namely, the REDIAL icon shown in Figure 4A) is not even shown in Figure 4B. Thus, a submenu is not displayed for the active selection element along with the active selection element, since the active selection element is not displayed in Figure 4B of Inoue.

For these reasons as well, amended dependent claims 2, 20, 23, and 25 are further distinguished over Inoue in view of Smethers.

With respect to dependent claim 3, the Office further relies on Inoue for teaching activating an element of said sub-menu and displaying an auxiliary element on the active element of the sub-menu, citing Figure 4C, A11 as having auxiliary elements being two arrows up and down. The volume control shown in Figure 4C of Inoue, even if one assumes that the volume up and down buttons are the displaying of an auxiliary element upon activating an element of a sub-menu, are not on the active element of the sub-menu as required by dependent claim 3. Therefore, dependent claim 3 is further distinguished over the cited references in view of this argument.

With respect to dependent claim 4, the Office asserts that Inoue teaches at least one auxiliary element being not shown in the non-active selection elements. Claim 4 has been amended to point out that the at least one auxiliary element is not displayed along with the non-active selection elements so that the verbs have consistent usage in claim 1.

The Office cites Figure 6G of Inoue showing ENTER button C50 are the non-active selection element and that “no show” auxiliary element is the ENTER button C50. The Office’s argument is not well understood since, if the ENTER button is the non-active selection element, then what auxiliary element is displayed which is not displayed when this ENTER button is activated? At best, Figures 6A-6G show that icons can be selected with a soft key and that upon selection, other icons are shown, but there is no showing of activating one of a plurality of selection elements and displaying a magnified version of is active selection element along with at least one auxiliary element, wherein the at least one auxiliary element is not displayed along with said active selection element prior to said activating and wherein the at least one auxiliary element is not displayed along with the non-active selection elements. Therefore, C4 is believed to be distinguished over Inoue and Smethers further in view of the above argument.

Regarding dependent claim 8, it is not seen how Japanese katakana character as identified by C<sub>C5</sub> is a shortcut as asserted by the Office, rather it is simply one of a plurality of katakana characters which can be selected by movement of arrow keys C51 and C52. The purpose of Figure 6F is to select the correct katakana characters for a particular header. There is no disclosure of using these katakana characters as a shortcut as required by claim 8. Further, there is no showing that such a katakana character causes a

selectable function to be accessible, rather it is simply the selection of the character for purposes of being used in a header.

Independent claim 11 is rejected in view of Inoue and Smethers for essentially the same reasons as presented above with respect to independent claim 1 with a further recitation of a graphical user interface shown in Figure 4A of Inoue. For the reasons presented above with respect to the remaining elements of claim 11, including that the apparatus is configured to activate one of the plurality of selection elements and that the apparatus is configured to display a magnified version of the active selection element along with at least one auxiliary element on said graphic user interface, wherein the at least one auxiliary element is not displayed along with the active selection element prior to said activating, is not suggested by Inoue in view of Smethers.

Dependent claims 13-18, 36 and 37 are also distinguished over the cited art at least in view of such dependency and for claims corresponding to those discussed above with respect to claim 1, for the additional reasons presented above.

Independent claim 21 is similar to independent apparatus claim 11, but specifically points out that at least one selection element comprises an auxiliary element, wherein an active selection element comprises a visible auxiliary element, wherein the visible auxiliary element is configured to navigate to another selection element that becomes the next active selection element, wherein the interface is configured to hide the auxiliary element in the active selection element upon navigating to a next active selection element, to display a newly visible auxiliary element in said next active selection element and further that the apparatus is configured to display a magnified version of the active or next active selection element along with said auxiliary element on said display.

Thus, claim 21 specifically points out the feature discussed above with regard to claim 1; that is, that the auxiliary element is not displayed along with the active selection element prior to the activating of that selection element. For the reasons presented above with regard to claim 1, it is respectfully submitted that Inoue fails to disclose this feature of the present invention. Furthermore, the Office asserts that Figure 6F shows active selection element C50 being two arrows (up and down) and that these are considered auxiliary elements. Although these elements allow for navigating up and down, it is not seen how the interface is configured to hide the auxiliary elements in the active selection



element upon navigating to a next active selection element since if the ENTER button C60 in Figure 6G is the “no-active” selection element as proffered by the Office,<sup>1</sup> this selection element is not shown in Figure 6F which would be required by claim 21.

For all of the foregoing reasons, it is respectfully submitted that independent claim 21 is distinguished over the cited references.

Dependent claim 29 is also believed to be distinguished over the cited art at least in view of its dependency from claim 21.

With respect to independent claim 26, the Office again relies on Inoue and Smethers. Independent claim 26 corresponds to method claim 1 except that it is directed to a mobile phone having a graphic user interface and a processor configured to display a plurality of selection elements on said graphic user interface.

For the reasons presented above with respect to claim 1, it is respectfully submitted that claim 26 is distinguished over Inoue and Smethers.

Dependent claim 27 is also distinguished over Smethers at least in view of its dependency from amended claim 26 and for the reasons presented above with respect to claim 2.

Independent apparatus claim 30 corresponds to independent apparatus claim 11, but written using means plus function terminology. For the same reasons as presented above with regard to claim 11, independent apparatus claim 30 is distinguished over the cited references.

Independent method claim 40 recites the actions of displaying a plurality of selection elements and activating one of the plurality of selection elements, as well as displaying a magnified version of the active selection element along with an associated sub-menu. Inoue and Smethers fail to suggest claim 40 since neither reference discloses activating a selection element and displaying a magnified version of the active selection element associated with a sub-menu. When a selection element in Inoue is selected, a new display screen is shown without a magnified version of the active selection element. Smethers fails to make up for this deficiency in Inoue. If, as argued by the Office, the activating of the ENTER icon in Figure 6E is selected, Figure 6F is not obtained, but rather Figure 6A is

---

<sup>1</sup> C50 is not associated with the ENTER button, but C60 is in Figure 6G.

obtained. Furthermore, even in Figure 6F, neither a magnified version nor the word ENTER is shown and thus the requirement of displaying a magnified version of the active selection element along with an associated sub-menu is not met, even if arrows identified as C50 are considered to be an associated sub-menu.

For all of the foregoing reasons, independent claim 40 is believed to be distinguished over the cited art.

Dependent claims 41-45 are also allowable at least in view of their ultimate dependency from amended claim 40.

### **Response to Response to Arguments**

In response to the Response to Arguments section at page 12 of the Action, the Office states that applicant has argued that Inoue failed to clearly teach the auxiliary elements being “not” displayed along with a magnified version of the active selection element. It is believed that the Office meant to say that applicant was arguing that Inoue failed to teach the auxiliary element being displayed along with a magnified version of the active selection element. The Office states that Smethers teaches a magnified version of the active selection element in Figures 5A, 5B, and 5D. However, as indicated above in applicant’s main arguments, the selection elements “E-mail”, “Inbox” and “Back” that are magnified in Figures 5A, 5B, and 5D respectively are not active selection elements, but selection elements that can be later selected if the select key is depressed (Smethers, Table 2).

The Office further states that Inoue shows in Figure 6F auxiliary elements being two arrows C50 to be displayed along with a version of the active selection element C50 shown in Figure 6E which is the ENTER element. However, the ENTER element is not shown in Figure 6F and thus is not displayed with the auxiliary element even if the ENTER element is the “active” selection element.

### **Conclusion**

For all of the reasons presented above, it is respectfully submitted that Inoue and Smethers fail to disclose or suggest the present invention as claimed.

In view of the foregoing, it is respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited.

Respectfully submitted,

Dated: April 28, 2010

/Alfred A. Fressola/

Alfred A. Fressola  
Attorney for Applicant  
Registration No. 27,550

WARE, FRESSOLA, VAN DER  
SLUYS & ADOLPHSON LLP  
Building Five, Bradford Green  
755 Main Street, P.O. Box 224  
Monroe, CT 06468  
Telephone: (203) 261-1234  
Facsimile: (203) 261-5676  
USPTO Customer No. 004955